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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,691	09/19/2001	David H. Harkness	28049/34692A	1414

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EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955,691

Applicant(s)

HARKNESS ET AL.

Examiner

Jason P. Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24, 26-33 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-24, 26-33 and 48-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 2/18/2005, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

The examiner agrees with Applicant on how a broadcast signature does not contain a media link, however, Thomas also discloses various types of code readers that detect ancillary codes, which read on the media link limitation, therefore the examiner has provided below a new grounds of rejection by applying the Thomas reference of record.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-6, 24, 29 and 31-33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Thomas et al. (U.S. Patent No. 5,481,294).

Referring to claim 1, Thomas discloses a tuner to tune to the program (see element 70 in Figure 2C).

Thomas also discloses a meter coupled to the tuner to record a media link embedded in the program tuned by the tuner (see the reference code reader 86 in Figure 2C and Column 13, Lines 30-34 for the code 86 reading the same ancillary code as the household code reader 60 and Column 11, Lines 40-49 for the ancillary code identifying the program and/or station, thereby providing an embedded media link).

Thomas also discloses a program identifier to identify the program tuned by the tuner based on the media link recorded by the meter (see Column 11, Lines 40-42 for the ancillary code (media link) identifies both the program and station, therefore containing a program identifier to identify the program based on the ancillary code recorded by the code reader 86 (or household code reader 60) in Figure 2C).

Referring to claim 4, Thomas discloses that the program identifier is arranged to identify the program directly from the media link (see Column 11, Lines 40-42 for the media link identifying a program).

Referring to claim 5, Thomas discloses that the program identifier is arranged to

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identify the program by accessing a content provider (see Column 11, Lines 40-42 for also identifying the station from the ancillary code, therefore a program can also be identified by accessing the station id/content provider).

Referring to claim 6, see rejection of claim 4 and note that the ancillary code provides information to identify the program, therefore when code reader 86 reads the code, the ancillary code provides a manual identification of the program.

Referring to claim 24, Thomas discloses a tuner tunable to at least one of a plurality of channels and a meter coupled to the tuner (see rejection of claim 1).

Thomas also discloses that the meter is arranged to detect a media link embedded in a program carried in a channel tuned by the tuner (see the rejection of claim 1) and to extract a broadcast signature from the program (see Column 12, Lines 45-46 and Figure 2C for a reference signature extractor 62).

Thomas also discloses a comparator arranged to generate a subset of reference signatures from a library of reference signatures based upon the media link (see Column 17, Lines 15-20 for detecting the media link (ancillary code of tuned program) in a program and comparing the media link to reference signatures in library 88 and Column 17, Lines 27-28 for storing the appropriate reference record according to the comparison results and also note Figure 6 for the stored reference records containing reference signatures, thereby creating a subset of reference signatures), and to compare the broadcast signature extracted by the meter to the subset of reference signatures (see Column 18, Lines 34-28 for comparing the tuning records 120 in Figure

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4 that contain no ancillary codes (only broadcast signatures) to the subset of reference signatures (reference record 154)).

Referring to claim 29, see rejection of claim 24 and note that Thomas also teaches that ancillary codes can be extracted from one or more vertical blanking intervals in the program video, thereby teaching the closed captioning portion of a video signal, and therefore ancillary codes are inherently closed captioning information.

Referring to claim 31, Thomas discloses that the reference signature includes an identification of the program (see Column 12, Lines 57-58).

Referring to claim 32, Thomas discloses that the broadcast signature includes a channel and time at which the broadcast signature is extracted (see Column 12, Lines 51-55).

Referring to claim 33, see rejection of claim 31.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-10, 13-23, 26-28 and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (U.S. Patent No. 5,481,294) in view of Killian (U.S. Patent No. 6,163,316).

Referring to claims 7-8, Thomas discloses all of the limitations in claim 1, but fails

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to teach that the media link is a URL (website) or a code referenced to a URL (hyperlink used to access the website). Killian discloses extracting a URL/code referenced to a URL in the VBI of a television signal (see Column 5, Lines 14-29 and Lines 39-42).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the program information transmitted in and extracted from the VBI, as taught by Thomas, using the URL data transmitted in the VBI, as taught by Killian, for the purpose of integrating television signals and Internet information (see Column 5, Lines 44-45 of Killian).

Referring to claim 9, see rejection of claims 7-8 and note that the URL data sent in the VBI can be "triggered" to receive a web page, therefore a URL is a trigger used to retrieve a web page over the Internet (see Column 5, Lines 19-21 of Killian).

Referring to claim 10, Thomas discloses a tuner to tune to the program (see element 70 in Figure 2C).

Thomas also discloses that the meter captures first and second program identifying data identifying the program tuned by the tuner (see the reference code reader 86 in Figure 2C and Column 13, Lines 30-34 for the code 86 reading the same ancillary code as the household code reader 60 and Column 11, Lines 40-49 for the ancillary code identifying the program and/or station, thereby providing an embedded media link and see Column 12, Lines 45-46 and Figure 2C for a reference signature extractor 62), wherein the first program identifying datum is a media link (see Column 11, Lines 40-49) and the second program identifying datum is data other than a media

link (see Column 12, Lines 47-48 for extracting reference signatures).

Thomas fails to disclose that when the media link is activated, a request for information is made from a content provider via a network. Killian teaches receiving a URL via VBI television signal (see Column 5, Lines 39-42) and using this URL to receive a web page via the Internet (see Column 5, Lines 14-29).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the program information transmitted in and extracted from the VBI, as taught by Killian, for the purpose of integrating television signals and Internet information (see Column 5, Lines 44-45 of Killian).

Claim 13 corresponds to claim 10, with the additional limitation of a program identifier arranged to identify the program from the first or second identifying data (see Column 11, Lines 40-42 for the media link identifying a program).

Claim 14 corresponds to claim 13, with the additional limitation of the program identifier identifies the program by comparing the first or second program identifying data to the first or second reference identifying data (see Column 17, Lines 15-29).

Claim 15 corresponds to claim 10, where Thomas discloses that the second program identifying datum is a signature extracted from the program (see Column 12, Lines 45-51).

Claim 16 corresponds to claim 10, where Thomas teaches the additional limitation of keeping the second program-identifying datum only if the meter fails to acquire the first program-identifying datum (see Column 18, Lines 34-38).

Claim 17 corresponds to claim 10, where Thomas teaches that the program

identifier is arranged to identify the program directly from the media link (see Column 17, Lines 15-29).

Claim 18 corresponds to claim 10, where Thomas teaches the program identifier being arranged to identify the program (see the rejection of claim 13) and Killian teaches activating the media link to initiate the request for information from the content provider (see again the rejection of claim 10).

Claim 19 corresponds to claim 10, where Thomas teaches that the program identifier is arranged to receive a manual identification of the program (see rejection of claim 13 and note that the ancillary code provides information to identify the program, therefore when code reader 86 reads the code, the ancillary code provides a manual identification of the program.).

Referring to claims 20-21, see rejection of claims 7-8, respectively.

Referring to claim 22, see rejection of claim 9.

Referring to claim 23, see rejection of claim 16.

Referring to claims 26-28, see rejection of claims 7-9, respectively.

Referring to claims 48-50, see rejection of claim 7.

4. Claims 2-3 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (U.S. Patent No. 5,481,294) in view of Lu et al. (5,594,934).

Referring to claims 2-3, Thomas teaches all of the limitations in claim 1 and a meter that is arranged to detect media links from programs carried in the tuned channels, but fails to teach a scanning tuner for tuning to a plurality of channels.

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Thomas only teaches multiple tuners (element 70 in Figure 2C).

Lu teaches a scanning tuner used to cycle through all channels that are available for tuning (see Column 6, Lines 23-26).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the local metering site (element 34 in Figure 2A) that contains multiple tuners, as taught by Thomas, to include the scanning tuner, as taught by Lu, for the purpose of reducing the amount of tuner components in the system by only utilizing a single scanning tuner, reducing the cost of the system.

Referring to claims 11-12, see rejection of claims 2-3, respectively.

5. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (U.S. Patent No. 5,481,294 in view of Lert, Jr. et al. (U.S. Patent No. 4,677,466).

Referring to claim 30, Thomas discloses all the limitations in claims 22, but fails to teach comparing the broadcast signature to a reference signature selected from a library of reference signatures based upon a hash code.

Lert, Jr. teaches using a hash code to search through a database of about 40,000 reference signatures (see Column 9, Lines 58-65).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the comparator, as taught by Thomas, using the comparison technique, as taught by Lert, Jr, for the purpose of identifying repetitively broadcast programs and the time of occurrence of the broadcast and the duration of broadcast (see Column 2, Lines 10-14 of Lert, Jr.).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2614

August 8, 2005



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